

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

Civil Action No. 04-CV-12249-DPW

HARVARD REAL ESTATE-ALLSTON, INC.,	)	
Plaintiff,	)	PLAINTIFF'S INITIAL
	)	DISCLOSURES, PURSUANT TO
v.	)	FRCP 26(a)(1) AND LOCAL RULE
	)	26.2(A)
KMART CORPORATION, KMART STORE 9424,	)	
Defendant.	)	
	)	

The Plaintiff, Harvard Real Estate-Allston, Inc. ("Harvard"), by its attorneys, hereby submits its Initial Disclosures pursuant to Rule 26(a)(1) of the Federal Rules of Civil Procedure, and Local Rule 26.2(A).

**I. INDIVIDUALS LIKELY TO HAVE DISCOVERABLE INFORMATION [FRCP 26(a)(1)(A)]**

Edward B. Reiss  
Director of University and Commercial Real Estate  
Holyoke Center, 1350 Massachusetts Avenue  
Cambridge, MA 02138

Robert Sammonds  
Real Estate Property Manager  
Harvard Real Estate Services  
90 Windom Street, Suite-1, Allston, MA 02134

Lisa Sweezey  
Property Administrator  
Harvard Real Estate Services  
90 Windom Street, Suite-1, Allston, MA 02134

Stephen Faber  
Vice President of Asset Management  
Beal and Company, Inc.  
177 Milk Street  
Boston, MA 02109

Peter Conti  
Officer in Charge, Massachusetts/Rhode Island/Maine Field Offices  
Northeast Region, Food and Nutrition Services  
United States Department of Agriculture  
501 O'Neill Federal Building  
10 Causeway Street  
Boston, MA 02222

Keeper of the Records  
Health Division, Inspectional Services Department  
1010 Massachusetts Avenue, 4<sup>th</sup> Floor  
Boston, MA 02118

Blanche Madill  
Store Manager, Kmart Store 9424  
Brighton Mills Shopping Center  
400 Western Avenue  
Brighton, MA 02135

Robin Turley  
Merchandise Manager, Kmart Store 9424  
Brighton Mills Shopping Center  
400 Western Avenue  
Brighton, MA 02135

Patricia Briskey  
Property Administrator  
Kmart Resource Center  
3100 West Big Beaver Road  
Troy, MI 48084

S. Jeffrey Stollenwerck  
Vice President – Real Estate  
Kmart Resource Center  
3100 West Big Beaver Road  
Troy, MI 48084

Kim Facer  
Divisional Vice President, Real Estate Administration  
Kmart Resource Center  
3100 West Big Beaver Road  
Troy, MI 48084

Greg Zralka  
Divisional Vice President, Merchandising Food & Consumables  
Kmart Resource Center  
3100 West Big Beaver Road  
Troy, MI 48083

Susan Macks  
Coordinator, State and Federal Government Consumer Programs  
Kmart Resource Center  
3100 West Big Beaver Road  
Troy, MI 48083

Mark Conrad  
Director, Store Operations Finance  
Kmart Resource Center  
3100 West Big Beaver Road  
Troy, MI 48083

Kim Belkowski  
Team Manager Space Planning  
Kmart Resource Center  
3100 West Big Beaver Road  
Troy, MI 48083

Joyce DiFalco  
Lease Administrator  
Kmart Corporation  
3100 West Big Beaver Road  
Troy, MI 48084

The Plaintiff reserves the right to supplement this list as additional witnesses may become known.

## **II. DOCUMENT CATEGORIES AND LOCATION [FRCP 26(a)(1)(B)]**

(All listed categories of documents are located with Plaintiff's counsel, though some individual documents may be located at Harvard Real Estate Services, 1350 Massachusetts Avenue, Cambridge, MA 02138, and/or with the Defendant and/or its counsel, and/or with other parties as indicated).

Commercial Lease

Notice of Default

Notice to Vacate/Notice of Termination

Correspondence to and from Kmart

Photographs of Kmart Store 9424

Cash register receipts for purchases at Kmart Store 9424

Kmart circular advertisements

Kmart documents pertaining to inventories of groceries/food items offered for sale at Kmart Store 9424 (which may include, without limitation, photographs, cash register receipts, circular advertisements, and other documents)

Kmart documents pertaining to gross sales of groceries/food items at Kmart Store 9424

U.S. Department of Agriculture Food Stamp Program for Retailers documents

Health Division, Inspectional Services Department documents

The Plaintiff reserves the right to supplement this list as other and further documents become known.

### **III. COMPUTATION OF DAMAGES [FRCP 26(a)(1)(C)]**

Not applicable, as Harvard has not sought damages in this eviction action brought for possession only of the commercial premises.

**IV. INSURANCE AGREEMENTS [FRCP 26(a)(1)(D)]**

The Plaintiff is unaware of any insurance agreements that are applicable. The Plaintiff shall supplement this disclosure if it uncovers applicable insurance coverage.

Respectfully submitted,  
Plaintiff,  
Harvard Real Estate Allston-Inc.  
By its attorneys,

A handwritten signature in black ink, appearing to read 'Frank A. Flynn', is written over a horizontal line. To the right of the signature, the letters 'ESA' are handwritten.

Frank A. Flynn, Esq. (BBO# 551668)  
Randolph C. English, Esq. (BBO# 628647)  
Downing & Flynn  
85 Devonshire Street, Suite 1000  
Boston, MA 02109  
(617) 720-3535

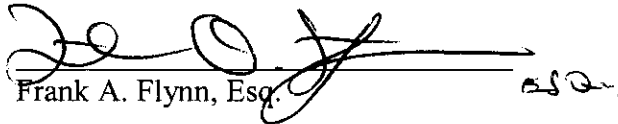
DATED: January 5, 2005

**CERTIFICATE OF SERVICE**

I, Frank A. Flynn, Esquire, Attorney for the Plaintiff, hereby certify that I have served the Defendant this date with a copy of this Plaintiff's Initial Disclosures Pursuant to FRCP Rule 26(a)(1) and Local Rule 26.2(A), by facsimile and by mailing a copy of same to its counsel of record by first class mail, postage prepaid, as follows:

William R. Moorman, Esq.  
Kathleen A. Rahbany, Esq.  
Craig and Macauley Professional Corporation  
Federal Reserve Plaza  
600 Atlantic Avenue  
Boston, MA 02210

this 5<sup>th</sup> day of January, 2005.

  
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Frank A. Flynn, Esq.